THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 15026 of 2005

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Date: 27.07.2005

Between:

Mrs.K.Laxmi, W/o.M.Sriram Reddy,

R/o.3-6-760/E2, Street No.13,

Himayathnagar, Hyderabad.

..... PETITIONER

AND

1. A.P. State Road Transport Corporation,

   Rep. by its Vice Chairman & Managing Director,

   Musheerabad, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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ORDER:

This writ petition is filed by the petitioner aggrieved by the communication dated

20.06.2005, under which, the fourth respondent conveyed to the petitioner that he was permitted to utilize only two lines i.e., one for local and other for STD/ISD, but, as he has been utilizing nine lines in violation of the terms and conditions of the agreement, he has been imposed a penalty of Rs.1,000/- and has been advised to remove the additional lines keeping only two lines in future, or else, his case will be recommended for termination of agreement.

2. According to the petitioner, he submitted his tender in response to the notice issued by the respondent Corporation in the year 2004 and his tender was accepted and a licence was granted to him, which is valid up to 09.11.2010. As per the terms and conditions of the agreement, there is no restriction as to the number of lines to be installed. Therefore, the petitioner had installed nine lines, as it is uneconomical to run the STD Booth with one or two lines. It is stated that the first respondent issued a Circular No.09/2005-OPD(C), dated 22.03.2005, as per which, a restriction was imposed in the number of lines to be installed and maintained at the telephone booths w.e.f 01.04.2005. It is also stated that under Clause 7-A of the said Circular, the Corporation imposed a restriction on the licensees of the Public Telephone Booths to use one telephone line for local calls and one telephone line for STD/ISD and the licensees are not entitled to install more than two lines. Basing on the above restrictions imposed by the said circular, the fourth respondent has issued the impugned proceedings directing the petitioner to pay penalty of Rs.1,000/- and also advised him to restrict the running of the telephone booth only with two lines.

3. The grievance of the petitioner is that, when he was granted permission or licence and entered into agreement there was no such restriction and therefore, he had installed nine lines and is running the telephone booth. It is stated that it is uneconomical to run the telephone booth with any reduced number of telephone lines. Therefore, he is not prepared to run the telephone booth with two lines as restricted by the subsequent Circular dated 22.03.2005. Hence, sought for appropriate orders.

4. A counter-affidavit is filed on behalf of the respondents disputing and denying the contentions of the petitioner and the stand of the Corporation is that the petitioner is not entitled to have nine lines or more than two lines. It is also the stand of the Corporation that if the petitioner is not prepared to run the telephone booth with two permitted lines, his license would be cancelled with all consequential penalisation. Therefore, they sought for dismissal of the writ petition.

5. Heard both sides and considered the entire material available on record.

6. Admittedly, the petitioner has got a license for running a telephone booth in Stall No.71 at Mahatma Gandhi Bus Station, Hyderabad, which is valid up to 09.11.2010. As per the licence, the petitioner has been running the telephone booth by installing nine lines. But, however, the grievance of the petitioner is that by virtue of the subsequent Circular issued in the year 2005 i.e., on 23.02.2005, the respondent Corporation proposed to impose a restriction as to the number of lines to be allowed at the telephone booths, for which the petitioner is not agreeable and in fact it is represented that the petitioner is prepared to even vacate the STD Booth if he is not permitted to run the telephone booth with nine lines. Though the terms of the agreement has been filed, which was entered into between the petitioner and the respondent, there is no specific condition restricting the petitioner that he should run the telephone booth only with two lines. In the absence of any such restriction, as per the terms of the agreement entered into between the parties, the respondent Corporation is not entitled to impose such a restriction by issuing a subsequent Circular, which would affect the business of the petitioner. In fact, as on the date when the petitioner submitted his tender, there was no such restriction that he should run the telephone booth only with two lines one for local calls and another for STD/ISD. In the absence of any such terms, the restriction imposed now by virtue of Circular dated 22.03.2005 is not just and proper and in fact cannot be imposed on the petitioner. For any reason, if the Corporation proposes to impose such restriction, they can give option to the existing licensees to continue with these restrictions and if they are not agreeable to the restrictions imposed by the Corporation, they should be given liberty to vacate the stalls without any penal consequences, as they have not committed any default.

7. Under the above circumstances, the writ petition is disposed of directing the respondent Corporation to communicate the petitioner within a period of four weeks either allowing the petitioner with the existing lines at Stall No.71, to which he was granted license, which is valid up to 09.11.2010 or issue a notice seeking vacation of the Stall within a reasonable period of one month from the date of serving of the notice. If the respondent Corporation is not prepared to allow the petitioner with nine existing lines till the license period is completed and if the petitioner fails to vacate the premises on such serving of the notice, the respondent Corporation is entitled to

impose restriction of allowing the petitioner to have only two lines as per the Circular dated 23.02.2005. On the other hand if the petitioner vacates the premises i.e., Stall No.71 as ordered, the respondent Corporation is not entitled to impose any penalty or any other liability on the petitioner.

8. The writ petition is accordingly disposed of at the admission stage.

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S. Ananda Reddy, J

Date: 27.07.2005

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